#### **CONFIDENTIAL**

# OFFICE FOR THE PREVENTION OF HARASSMENT AND DISCRIMINATION FORMAL INVESTIGATION REPORT

Complainant(s):

Date of Incident(s):	2014-	2015				
Reported to OPHD:	February 7, 2	February 7, 2015 Andrea LaCampagne, Complaint Resolution Officer, OPHD				
Investigator:						
Date of Report:	October 2, 2015					
Finding:	Violation of the sexual harassment provision of the UC Policy on Sexual Harassment and Sexual Violence (2/25/14 version)					
I. Background	and Allegation	ns				
The Complain	nants are		These Complainants broa	ught forth		
			and Sexual Violence ("the plainants 1 and 2 throughout the property of the pro			
against the Responde report.	ent. The	identified as Con	ipiainants i and 2 throughou	at this		
The ballor	inent	Identity	Status			
Complainant 1		Identity	Status			
Complainant 1 Complainant 2				m 0.5		
South East Asian Stu	reported	S.") Over 20	member of the Department of th	the		
			contact was unwelcome and			
uncomfortable.	ret	erred Complainant 1's	issue to OPHD on February	7, 2015		
			After Complai	nant l's		
complaint was receiv	ed by OPHD, (	OPHD then presented a	sexual harassment preventi	on		
training		on April 2015.	On April 2015, a follow	-up		
session was held	who ha	ad questions for OPHD	. After the trainings, other	93		
came forwar Complainant 2.	rd to OPHD to	share concerns about th	e Respondent's behavior, in	cluding		
Of the total	who car	ne forward after the OP	PHD trainings, only those	Maria de la companya del companya de la companya del companya de la companya de l		
who had concerns the	at could potenti	ally rise to the level of	a violation of the UC Policy	on on		

Sexual Harassment and Sexual Violence will be analyzed in this report. This report will focus on the potential sexual harassment issues of the two Complainants as these are under OPHD's invitable to an advertise to the two Complainants as these are under OPHD's

jurisdiction and subject matter expertise.

### II. Interim Remedies



D. Complainant 2 requested that the Respondent not enter into unless he had official business there. The Respondent agreed not to enter throughout the investigation period.

#### III. Jurisdiction

The Office for the Prevention of Harassment and Discrimination (OPHD) has campuswide responsibility for stopping, preventing and remedying sexual harassment and sexual violence. The OPHD responds to and investigates potential violations of the UC Policy on Sexual Harassment and Sexual Violence, including, reports of sexual harassment, sexual violence, domestic violence, dating violence, stalking, and sexual assault brought forward by students, staff, and faculty.

#### IV. Applicable Policy

The conduct complained of occurred in 2014 and 2015, therefore, the applicable policy for this investigation is the University of California Policy on Sexual Harassment and Sexual Violence, effective February 25, 2014 (hereinafter, "the Policy.")<sup>1</sup>

The Policy states: "Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment is conduct that explicitly or implicitly affects a person's employment or education or interferes with a person's work or educational performance or creates an environment such that a reasonable person would find the conduct intimidating, hostile or offensive."

"Sexual Harassment may include incidents between any members of the University community, including faculty and other academic appointees, staff, student employees, students... Sexual harassment may occur in hierarchical relationships between peers, or between individuals of the same sex or opposite sex. To determine whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and the totality of the circumstances, including the context in which the conduct occurred."

## V. Summary of Findings

Based upon a preponderance of the evidence, the Respondent violated the sexual harassment provision of the UC Policy on Sexual Harassment and Sexual Violence due to his behavior with Complainant 2. A detailed discussion of this finding is included in the Fact Finding and Analysis section of this report.

<sup>&</sup>lt;sup>1</sup> The new Interim Policy on Sexual Harassment and Sexual Violence is in effect as of June 17, 2015 through December 31, 2015.

# VI. Investigation of Sexual Harassment Complaints

# A. Complainant 1 Issues: Summary and Response

1. Complainant 1

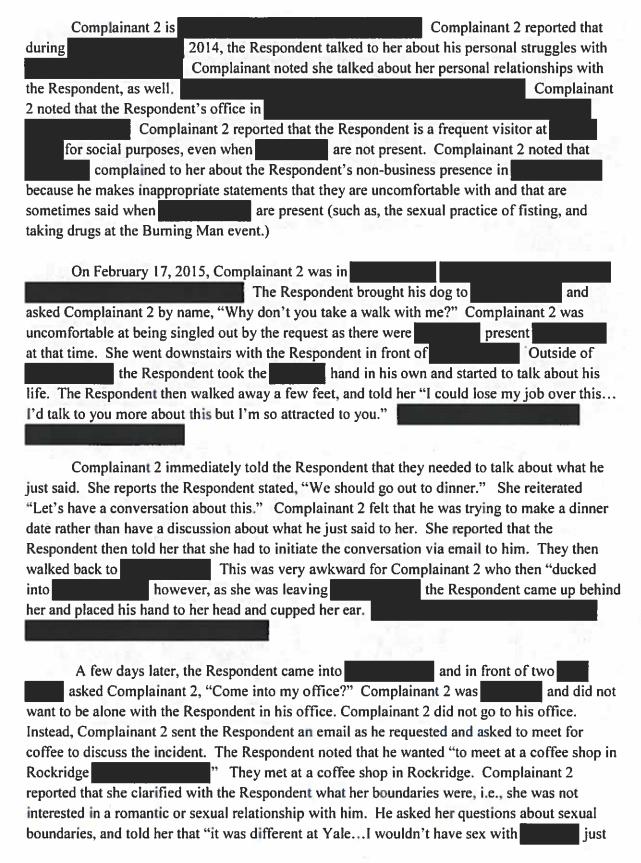








- B.
  - Complainant 2 1.



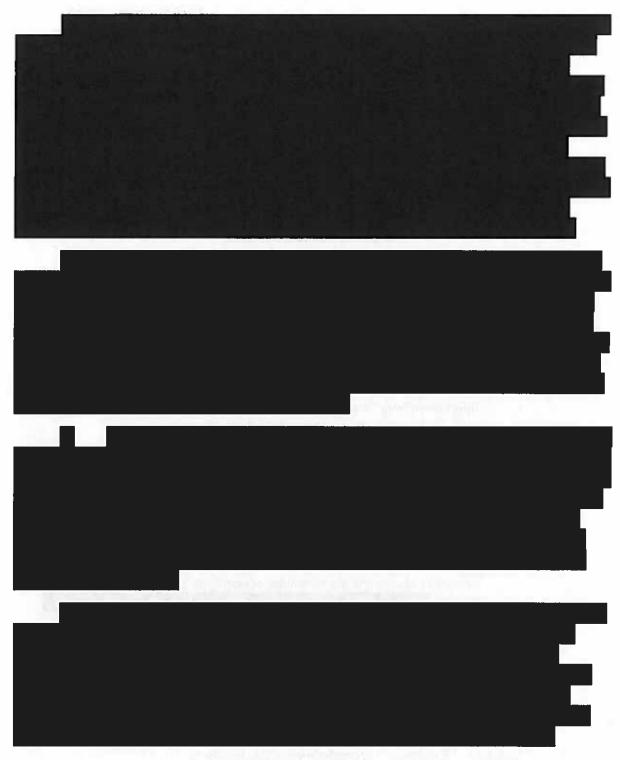
noid their hand and cup their ear." Complainant 2 interpreted the	•
	nplace at Yale than at
Berkeley. They stayed at the coffee shop and talked about "life que hinted cently that he could be "helpful with	lestions. She stated that he
hinted gently that he could be "helpful with ."	
Complainant 2 reported that at that time she was	after
this interaction with the Respondent. Complainant 2 is	around [the Respondent]
and avoids him," which is difficult to do because he comes into	often
_	
	ame forward after
in 2015 <sup>3</sup> to	
Complainant 2 met with	2015 Complainant 2 told
	2015. Complainant 2 told 2015. asked
about her interaction with the Respondent on February 17, not to report the issue to OPHD or anyone else because she	
the incident. reached out to OPHD after the April 15,	
	onfirmed that Complainant 2
had discussed the February 17 <sup>th</sup> interaction with him after	2015.
had discussed the reordary 17 interaction with thin after	2013.
After Complainant 1 and Complainant 2 came forward with	h their concerns, on April 7,
2015, met with the Respondent. On April 14, 2015,	wrote a "written
summary of the points we covered [at the meeting.]" In the letter,	wrote, "Concerns
about your behavior have arisen in two broad areas: concerns about	
review under the Faculty Code of Conduct, and concerns about as	pects of academic performance
that are subject to academic review." Referenced in the letter is th	
section 015 regarding harassment and discrimination, and OPHD.	wrote that he has
	hat he already spoke with the
Respondent in 2014 about "the importance of o	
	hat he "observed you
touching on several occasions."	noted that "In our most
recent conversation, I have again cautioned you against touching	positioning yourself in
close proximity and closing your office door	I have also
asked you not to discuss your intimate, or sexual life with	or make comments on
personal lives or attributes	
· ·	and must comport yourself
accordingly."	

# 2. Respondent's Statement and Response to Complainant 2

I interviewed the Respondent on June 6, 2015. The Respondent reported that on November 29, 2014, he had a conversation with multiple complaints against him, and complained of harassment. talked to the Respondent about keeping stronger personal boundaries
The Respondent stated that he asked Complainant 2 in , "Can I speak to you outside?" They walked outside. He did not touch her hand, and stated, "at most I patted her shoulder." They had an abstract conversation about whether marriage as a social construct was workable. Then Complainant 2 started to talk about "intimate details of her personal life." The Respondent told Complainant 2, "I can't talk to you about this because you're an attractive woman."
The Respondent stated that he and Complainant 2 often discussed personal matters with each other. He stated she wanted to meet with him to talk, and he told her, "If you want to meet with me you would have to initiate." He said he told her she'd have to initiate the meeting because of his previous talk with who had told him about having stronger personal boundaries
The Respondent denied there was any quid pro quo conversation. He stated that he thought "doesn't do much and he simply told her, "If you need help, I can help."
The Respondent expressed that he has had a tumultuous year.  He stated that since spoke with him in 2014 and in April of 2015, he goes to his office, deals with only his leaves. He is staying out of and will now only take
VII. Witness Information
The Respondent provided me with the names of three were women) that could speak to the relationship he had with them. None of the witnesses were direct witnesses to the Complainants' concerns, nor were they indirect witnesses, i.e., people he discussed the allegations with close in time, etc. I declined to interview them because they were not relevant to the investigation. Just because other people may state that the Respondent never engaged in any behavior that could be construed as inappropriate, unprofessional or of a sexual nature, does not tend to show whether or not the particular allegations with the two Complainants are true or not.
Complainants expressed that other would likely be willing to talk to me.  However, rather than breach the privacy of the parties, I spoke only to who came

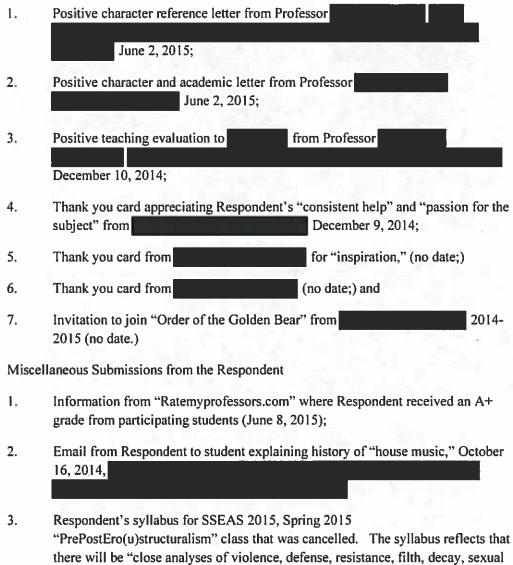






VIX. Documentary Evidence Reviewed

A. Positive Character and Academic Reference Letters/Notes for the Respondent



obsession, excess, and manifestations of numinous Sacred can kindle bright flames"

#### X. Factual Findings and Analysis

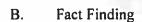
4.

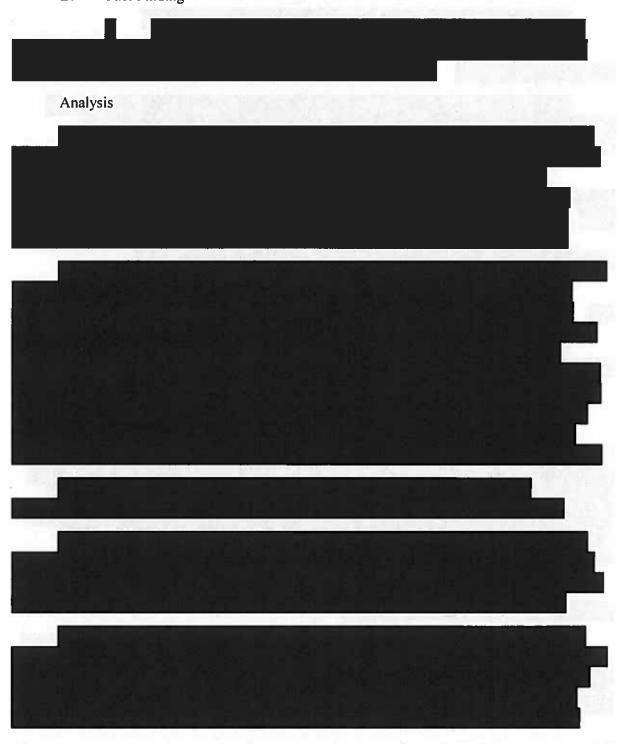
B.

Standard of Evidence: Preponderance of the Evidence A.

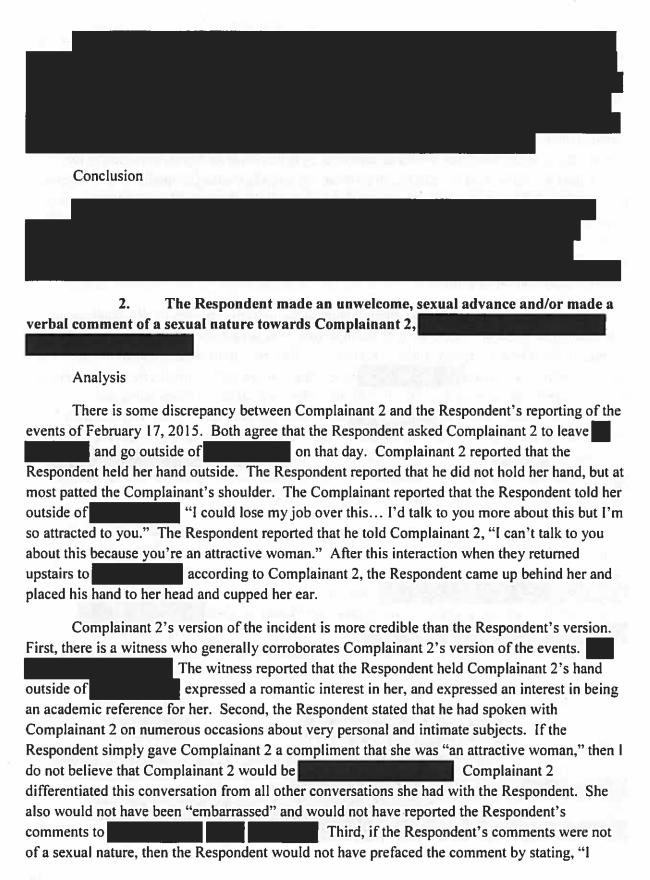
Findings in this investigation report are based on a "preponderance of the evidence" standard. In other words, after reviewing all the evidence, including the relative credibility of the parties and their statements during interviews, whether it is more likely (or probable) than not

that the conduct occurred. If the conduct did occur as alleged, then an analysis is completed to determine whether the conduct violated University policy. Please note: the report's findings do not reach conclusions whether conduct violated state or federal laws, but instead address whether the University's policies were violated.









	, the Respondent's reasoning for telling Complainant 2 that discuss his comments, does not make sense if the comment
	nature. Complainant 2 insisted that they had to talk about
the comments he just made. The Resp	
	e Respondent told Complainant 2 that she had to initiate
	the matter. This twisted procedure requiring Complainant
	be unnecessary if there was no sexual innuendo to the
	e did not cross a boundary with Complainant 2. It is more
•	to create a documentation trail to reflect that he was simply
	r coffee, if the ever brought a complaint forward.
	ndent over coffee that she was not interested in a sexual or
-	Respondent did not correct her that she misinterpreted his
words or intentions at this time.	
	nterpretation of the incident between the Respondent and
	made an unwelcome, sexual advance to Complainant 2 by
stating, "I could lose my job over this.	I'd talk to you more but I'm so attracted to you." He
invited Complainant 2 out	to engage with her alone outside, he made a pass at
her, and hoped that she would positive	ely respond. Moreover, after the Respondent and
Complainant 2 returned inside	the Respondent came up behind Complainant 2
and placing his hand to her head and c	upped her ear. This was an intimate physical touch, and
there was no rationale for th	is physical touch
In conjunction with his prior statem	nent, it was reasonable for Complainant 2 to believe that
Respondent's was making an unwelco	me, sexual advance.
The Respondent's comment to	Complainant 2 meets the first two requirements of the
•	Respondent comment is an "unwelcome, sexual
	f a sexual nature." Complainant 2 revealed the incident to
	She did not come forward at that time to report the
matter formally because she was too e	_
	The Complainant's reaction reflects that the
	ne to Complainant 2, as she rejected a sexual or romantic
relationship with him when they met f	
Complainant 2 described how	the Respondent's behavior impacted her. Complaint 2
noted that she was	she tried to avoid because
the Respondent's	she refused to meet with him when he asked her to
come into his office;	
,	The impact on Complainant 2 reflects
that the Respondent's behavior	- Institution of the second

Therefore, the evidence reflects that by a preponderance of the evidence, the Respondent made an unwelcome, sexual advance (or alternatively a verbal comment), sufficiently severe to constitute behavior of a "sexual nature," that affected and interfered with Complainant 2's and thereby violated the sexual harassment provision of the UC Policy on Sexual Harassment and Sexual Violence.

#### XI. Conclusion

By a preponderance of the evidence, the Respondent violated the sexual harassment provision of the UC Policy on Sexual Harassment and Sexual Violence.

Therefore, this formal investigation report is being referred to the Vice Provost for the Faculty for review.